



Atty Dkt No. 201423-0009  
U.S. Serial No. 09/428,508

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REMARKS

It is noted that claims 11-17, 19-42, 44-48 and 51-54 have been allowed and that claims 2, 3 and 7-10 will be allowed when amended to incorporate their parent claims.

Claims 2 and 3 have been amended to incorporate their parent claim and, therefore, should be allowable.

Claim 1 has been amended in view of the Examiner's comments. More particularly, the Examiner has cited the Pulsifer Patent 4,080,793 which shows tires in courses or layers which are parallel to the surface of the earth after it is graded to be horizontal with respect to gravity. The Examiner argues that sometimes the ground will slope, which will cause the tires to be inclined, but that is not taught by Pulsifer. Applicant's Claim 1 describes the courses with the tires inclined both vertically and horizontally with respect to gravity.

Applicant's claims, specification, and drawings are not tied into or related to the slope of the earth's surface. Hence, the issue is one of finding language which more clearly covers the applicant's intent, as shown in applicant's Figs. 1, 3, and other figures. These figures show an angling of the tires with respect to the surface of the earth, regardless of how the surface may or may not slope.

Applicant has solved the language problem by saying the inclination is taken with respect to gravity and independently of any slope of the surface of the earth's surface. This inclination of the tires against the force of gravity is the important factor that cause

applicant to angle the tires in order to brace the wall against a landslide. There is no art of record which shows such a tire orientation.

Under the Examiner's theory the earth's surface may slope downwardly, in which case, the wall would likely be weaker if Pulsifer's otherwise parallel tire orientation is used, i.e. imagine Pulsifer's line 32 sloping downwardly toward the left-hand edge of Fig. 1. The wall will be weak since the tires will also slope in this direction of a landslide. In Pulsifer's Fig. 2, where surface 54 does slope, the base surface 52 has been graded not to slope.

Accordingly, claim 1 is completely different than the disclosure in Pulsifer. Since claim 1 has been amended to distinguish over a sloping earth surface (which is not shown by Pulsifer), its dependent claims 7-10 should also be allowable.

New claim 55 depends on allowable claim 25 and is allowable with it since adding limitation to an allowable claim does not make it less allowable.

If the Examiner disagrees, he is respectfully requested to telephone the undersigned attorney so that another allowed claim may be selected for claims 7-10 to be dependent from.

Claims 49 and 50 have been canceled.

For the foregoing reasons, it is thought that the application is now in condition for allowance. If, for any reason, the Examiner should believe that anything further is required to make the application allowable, he is respectfully requested to telephone the undersigned attorney. Any reasonably necessary amendment will be made promptly.

Reconsideration and allowance are requested.

Respectfully submitted,

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Please cancel claims 49 and 50.

1. (Twice Amended) A retaining wall for retaining an embankment or similar structure including a plurality of tyres arranged in a plurality of courses adjacent to the embankment and such that a central axis of each tyre in an outer face of the retaining wall is inclined with reference to both vertical and horizontal axes, the inclination of both said vertical and said horizontal axes being taken with respect to gravity and independently of any slope of the earth's surface.)

Please cancel claims 49 and 50.

2. (Twice Amended) A retaining wall [as claimed in claim 1 wherein each tyre's] for retaining an embankment or similar structure including a plurality of tyres arranged in a plurality of courses adjacent to the embankment and such that a central axis of each tyre in an outer face of the retaining wall is inclined to both vertical and horizontal with a central axis of each of said tyres being [is] inclined to vertical at a batter angle ranging from 10° to 20°.

3. (Amended) A retaining wall [as claimed in claim 1 or claim 2] for retaining an embankment or similar structure including a plurality of tyres arranged in a plurality of courses adjacent to the embankment and such that a central axis of each tyre in an outer face of the retaining wall is inclined to both vertical and horizontal wherein adjacent ones of the courses[:] are separated by a fill material, optionally by a distance that is half a tyre in diameter[; or abut].

Please add the following new claim 55

55. A method as claimed in claim 25 wherein the arranging step (b) includes placing the tyres along the base with a central axis of each tyre in an outer face of the retaining wall being inclined to both vertical and horizontal.